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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,493	01/29/2004	Jack Shen	423 P002	5065

7590 02/24/2005

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EXAMINER

SMITH, KIMBERLY S

ART UNIT PAPER NUMBER

3644

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/767,493

Applicant(s)

SHEN ET AL.

Examiner

Kimberly S Smith

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-22 is/are rejected.
- 7) ☒ Claim(s) 12 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>01/29/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 200. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "220" has been used to designate both antenna and fish finder viewer. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and

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informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

3. Claim 1 objected to because of the following informalities: at the end of line 4, replace the period with a comma. Appropriate correction is required.

4. Claims 2 and 4 are objected to because of the following informalities: the preamble of the claim is directed to a fishing bait delivery *vehicle*, however the preamble of the independent claim is directed to a fishing bait deliver *system*. Replacing “vehicle” with - -system- -in the preamble of the claims would obviate this objection. Appropriate correction is required.

### ***Specification***

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the specification is silent to the u-shaped bait holder having a retaining means for holding a pin as per claim 12.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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7. Claims 1-3, 7 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Daniel, US Patent 6,389,732.

Daniel discloses the invention as claimed including a bait delivery vehicle in the form of a boat (30), a baited end portion (35) of a fishing line (14) being connected to a fishing pole (17) and a means for controlling the vehicle (11) including a forward direction (via actuation of 18) and a turning direction (via 19) wherein the control module is mounted on the fishing pole assembly (seen in Figure 1).

Regarding claim 11, Daniel discloses an electric motor (33), a propeller shaft (34), a propeller (as seen in Figure 4) and a power source (column 3, line 24).

8. Claims 1-6, 10, 11, 16, 17 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Dankwardt, US Patent 5,165,193.

Dankwardt discloses a fishing bait delivery system comprising a delivery vehicle in the form of a boat (15), a baited end portion of a fishing line (column 1, line 37) being connected to a fishing pole (reference Figure 7) and a means for controlling the bait delivery vehicle (14) which comprises a live bait well (27, as a worm would remain alive when placed on this member as it has a depth or an aquatic bait would remain alive as an amount of water may be provided therein); wherein the means for controlling comprises a remote control module having a forward, reverse, left and right direction (as seen in Figure 1); wherein the bait control module comprises means for commanding the release of the fishing bait via a bait release button (21).

Regarding claim 11, reference Figure 6.

Regarding claims 16, 17 and 23, the method of use is considered inherent through the operation of the disclosed device. With regards to claim 23, reference pin (31).

*Claim Rejections - 35 USC § 103*

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claims 1-6, 8, 9, 11, 13 and 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koda et al., US Patent 6,520,105 (Koda).

Koda discloses a fishing bait delivery system comprising a remotely controlled bait delivery vehicle (1) having means for holding and releasing means (80), the baited end portion of the line (13) having a fishing bait and a means for controlling the remotely controlled delivery vehicle (2). However, Koda does not positively claim the use of a fishing pole assembly connected to the fishing bait. It would have been obvious for one having ordinary skill in the art at the time the invention was made to use a fishing pole at then end of the fishing line in order to provide a means for reeling in the line upon the catching of a fish by the bait.

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Regarding claim 2, Koda as modified discloses the vehicle being a remotely controlled boat.

Regarding claims 3 and 4, Koda as modified discloses the means for controlling the vehicle controlling a forward and a turning direction of the vehicle including a forward, reverse, left and right direction (column 2, lines 6-12).

Regarding claims 5 and 6, Koda as modified discloses the control module comprising means for commanding the release of the fishing bait in the form of a bait release button (42D).

Regarding claim 8, Koda as modified discloses the vehicle comprising a fish finding sensor (7) and the system comprising a fish finder viewer (41).

Regarding claim 9, Koda as modified discloses the invention as claimed with the exception of the fish finder viewer being mounted on the fishing pole assembly. It would have been obvious to one having ordinary skill in the art at the time the invention was made to mount the viewer on the fishing pole assembly for easier manipulation of the bait system, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art.

Regarding claim 11, Koda as modified discloses an electric motor (19), a propeller shaft (20), a propeller (21) and a power source (18).

Regarding claims 13, Koda as modified discloses a computing device implemented means for determining the size of fish (47, column 5, lines 19-20). Koda discloses the user operates button 42D when a fishing school (and thereby fish) of predetermined size are detected then actuating the implemented means for commanding the release of the fish bait.

Regarding claims 16-21, Koda as modified discloses the invention as claimed and while the exact method steps are not detailed in the operation of the device, one having ordinary skill in the art would find the method of use obvious through the functioning of the device of Koda (reference in particular the Abstract giving a generalized statement regarding the use of the device).

12. Claims 14, 15 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koda et al, US patent 6,520,105 (Koda) as applied to claim 8 above, and further in view of Popeil, US Patent 3,798,825.

Regarding claims s 14 and 15, Koda as modified discloses a computing device implemented means for determining the depth of fish (47, column 5, lines 19-20). However, Koda does not disclose the use of a means for adjusting the depth a bait descends particularly in the form of a bobber. Popeil teaches within the same art of angling apparatus the use of a bobber for adjusting the dept a bait descends via adjusting the amount of fishing line between the bait and bobber for providing a bait at a depth known for having increased likelihood of catching a desired type of fish. It would have been obvious to one having ordinary skill in the art to use the bobber as taught by Popeil with the device of Koda in order to prevent the bait from descending past a depth at which the desired fish to be caught are known to be located.

Regarding claim 22, Koda as modified discloses the invention as claimed and while the exact method steps are not detailed in the operation of the device, one having ordinary skill in the art would find the method of use obvious through the functioning of the device of Koda (reference in particular the Abstract giving a generalized statement regarding the use of the device).

***Allowable Subject Matter***

13. Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Huikari (US 2004/0083642), Holm (US 6,822,927), Mechling, IV (US 6,122,852), Sullivan (US 6,041,537), James (US 5,806,232), Fedora et al. (US 5,154,016), Van Cleve (US 4,757,633).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly S Smith whose telephone number is 703-308-8515.

The examiner can normally be reached on Monday thru Friday 10:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 703-305-7421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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kss

A handwritten signature in black ink, appearing to read 'Teri L.', with a stylized flourish at the end.

TERI PHAM LUU  
SUPERVISORY  
PRIMARY EXAMINER